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AN ACT
RELATING TO TRANSPORTATION; ENACTING THE REGIONAL TRANSIT
DISTRICT ACT; AUTHORIZING THE CREATION OF REGIONAL TRANSIT
DISTRICTS; PROVIDING THE POWERS AND DUTIES OF REGIONAL
TRANSIT DISTRICTS; PROVIDING FOR THE POWERS AND
RESPONSIBILITIES OF THE BOARD OF DIRECTORS; AUTHORIZING
ISSUANCE OF BONDS; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. --This act may be cited as the
"Regional Transit District Act".

Section 2. PURPOSE. --The purpose of the Regional
Transit District Act is to:

A. serve the public by providing for the creation
of regional networks of safe and efficient public transit
services;

B. allow multijurisdictional public transit
systems to reduce the congestion of single-occupant motor
vehicle traffic by providing transportation options for
residents;

C. decrease automobile accidents by reducing
traffic congestion on freeways and streets;

D. reduce noise and air pollution produced by
motor vehicles;

E. prolong and extend the life of New Mexico's

1 existing roadways by easing the traffic burden;

2 F. provide residents with a choice of
3 transportation alternatives so that seniors, youth, low-
4 income and mobility-impaired residents and others unable to
5 drive or afford motor vehicles continue to have full access
6 to the goods, services, jobs and activities of the community;

7 G. improve the New Mexico economy by increasing
8 workforce and citizen access to education and higher paying
9 jobs; and

10 H. prolong and extend petroleum resources.

11 Section 3. DEFINITIONS. --As used in the Regional
12 Transit District Act:

13 A. "board" means the board of directors of a
14 district;

15 B. "bond" means a revenue bond;

16 C. "combination" means two or more governmental
17 units that exercise joint authority;

18 D. "commission" means the state transportation
19 commission;

20 E. "construct" or "construction" means the
21 planning, designing, engineering, acquisition, installation,
22 construction or reconstruction of a regional transit system;

23 F. "district" means a regional transit district
24 that is a political subdivision of the state created pursuant
25 to the Regional Transit District Act;

1 G. "governmental unit" means the state, a county
2 or a municipality of the state or an Indian nation, tribe or
3 pueblo located within the boundaries of the state;

4 H. "regional transit system" means a property,
5 improvement or system designed to be compatible with
6 established state and local transportation plans that
7 transports or conveys passengers within a region by means of
8 a high-occupancy vehicle, including an automobile, truck,
9 bus, van or railcar; and

10 I. "revenues" means tolls, fees, rates, charges,
11 assessments, grants, contributions or other income and
12 revenues received by the district.

13 Section 4. CREATION OF DISTRICTS. --

14 A. A combination may create a district by
15 contract. Upon the issuance by the commission of a
16 certificate stating that the district has been duly organized
17 according to the provisions of the Regional Transit District
18 Act, the district may exercise the functions conferred by the
19 provisions of that Act. The commission shall issue the
20 certificate within thirty days of the filing with the
21 commission of a copy of a contract that fulfills all the
22 requirements set forth in this section and a copy of the
23 bylaws and operating procedures of the district. The
24 commission shall cause the certificate to be recorded in each
25 county having territory included in the boundaries of the

1 district. Upon issuance of the certificate by the
2 commission, the district shall constitute a separate
3 political subdivision of the state and shall have all of the
4 duties, privileges, immunities, rights, liabilities and
5 disabilities of a political subdivision.

6 B. A contract establishing a district shall
7 specify the:

8 (1) name and purpose of the district and the
9 regional transit systems to be provided;

10 (2) establishment and organization of the
11 board in which all legislative power of the district is
12 vested;

13 (3) manner of the appointment, term of
14 service and qualifications, if any, of the directors and the
15 procedure for filling vacancies;

16 (4) officers of the district, the manner of
17 their appointment and their duties;

18 (5) voting requirements for action by the
19 board;

20 (6) provisions for the distribution,
21 disposition or division of the assets of the district;

22 (7) boundaries of the district, which shall
23 not include territory:

24 (a) outside the boundaries of the
25 members of the combination without the consent of the

1 governing body of the governmental unit of the territory; or

2 (b) within the unincorporated
3 boundaries of a county that is not a member of the
4 combination as the unincorporated boundaries of the county
5 exist on the date the district is created without the consent
6 of the governing body of the county;

7 (8) term of the contract and the method by
8 which it may be terminated or rescinded. The contract shall
9 not be terminated or rescinded so long as the district has
10 bonds outstanding;

11 (9) provisions for amendment of the
12 contract;

13 (10) limitations on the powers granted by
14 the Regional Transit District Act that may be exercised by
15 the district; and

16 (11) conditions required when adding or
17 deleting parties to the contract pursuant to Section 18 of
18 the Regional Transit District Act.

19 C. A governmental unit shall not enter into a
20 contract establishing a district without holding at least one
21 public hearing in addition to other requirements imposed by
22 law for public notice. The governmental unit shall give
23 notice of the time, place and purpose of the public hearing
24 by publication in a newspaper of general circulation in the
25 governmental unit at least ten days prior to the date of the

1 public hearing.

2 D. Upon the approval of the governor, the state
3 may join in a contract creating a district. The number of
4 directors of the board to which the state is entitled shall
5 be established in the contract, but in no case shall the
6 state be entitled to less than one director. The governor
7 shall appoint the director or directors representing the
8 state on the board, for a term as established by the contract
9 that created the district.

10 Section 5. BOARD. --

11 A. All powers, privileges and duties vested in or
12 imposed upon the district shall be exercised and performed by
13 the board. The board may delegate its powers by resolution
14 to an officer or agent of the board, with the exception of
15 the following:

16 (1) adoption of board policies and
17 procedures;

18 (2) ratification of acquisition of land by
19 negotiated sale;

20 (3) initiation or continuation of legal
21 action, not involving traffic or toll violations;

22 (4) establishment of policies regarding
23 fees, tolls, rates or charges;

24 (5) approval of significant route or
25 schedule changes affecting more than twenty-five percent of a

1 regional transit system; and

2 (6) issuance of bonds.

3 B. Only an elected official shall be able to vote
4 on resolutions regarding Paragraphs (2) and (6) of Subsection
5 A of this section.

6 C. The board shall promulgate and adhere to
7 policies and procedures that govern its conduct and provide
8 meaningful opportunities for public input. These policies
9 shall include standards and procedures for calling emergency
10 meetings.

11 D. The board shall be composed of at least one
12 director from each governmental unit that is a member of the
13 district. A director shall be an elected official or his
14 designee. A governmental unit shall not have a majority of
15 membership on the board, unless there are three or fewer
16 participating governmental units in the district.

17 E. A director of the board shall not vote on an
18 issue when the director has a conflict of interest. A
19 director of the board, officer of the board or employee of
20 the board shall not:

21 (1) acquire a financial interest in a new or
22 existing business venture or business property of any kind
23 when he believes or has reason to believe that the new
24 financial interest will be directly affected by his official
25 act;

1 (2) use confidential information acquired by
2 virtue of his office or employment for his or another's
3 private gain; or

4 (3) contract with the district without
5 public notice and competitive bidding and full disclosure of
6 his financial or other interest in the business that is party
7 to the contract.

8 F. The attorney general shall investigate and
9 prosecute, when appropriate, a complaint brought to his
10 attention involving a violation of Subsection D of this
11 section. Violation of the provisions of Subsection D of this
12 section by a director of the board, officer of the board or
13 employee of the board is grounds for removal or suspension of
14 the director or officer and dismissal, demotion or suspension
15 of the employee.

16 G. In addition to all other powers conferred by
17 the Regional Transit District Act, the board may:

18 (1) adopt bylaws;

19 (2) fix the time and place of meetings and
20 the method of providing notice of the meetings;

21 (3) make and pass orders and resolutions
22 necessary for the government and management of the affairs of
23 the district and the execution of the powers vested in the
24 district;

25 (4) adopt and use a seal;

1 (5) maintain offices at a place as the board
2 may designate;

3 (6) appoint, hire and retain employees,
4 agents, engineers, attorneys, accountants, financial
5 advisors, investment bankers and other consultants;

6 (7) prescribe, in accordance with the
7 Procurement Code, methods for auditing and allowing or
8 rejecting claims and demands for:

9 (a) the awarding of contracts for the
10 construction of improvements, works or structures;

11 (b) the acquisition of equipment; or

12 (c) the performance or furnishing of
13 labor, materials or supplies as may be required for carrying
14 out the purposes of the Regional Transit District Act; and

15 (8) appoint advisory committees and define
16 the duties of the committees.

17 Section 6. POWERS OF THE DISTRICT. --

18 A. A district is a body politic and corporate. In
19 addition to other powers granted to the district pursuant to
20 the Regional Transit District Act, the district may:

21 (1) have perpetual existence, except as
22 otherwise provided in the contract;

23 (2) sue and be sued;

24 (3) enter into contracts and agreements
25 affecting the affairs of the district;

1 (4) establish, collect and increase or
2 decrease fees, tolls, rates or charges for the use of
3 property of a regional transit system financed, constructed,
4 operated or maintained by the district; except that fees,
5 tolls, rates or charges imposed for the use of a regional
6 transit system shall be fixed and adjusted to pay for bonds
7 issued by the district;

8 (5) pledge all or a portion of the revenues
9 to the payment of bonds of the district;

10 (6) finance, construct, operate or maintain
11 regional transit systems within the boundaries of the
12 district;

13 (7) purchase, trade, exchange, acquire, buy,
14 sell, lease, lease with an option to purchase, dispose of and
15 encumber real or personal property and interest therein,
16 including easements and rights of way;

17 (8) accept real or personal property for the
18 use of the district and accept gifts and conveyances upon the
19 terms and conditions as the board may approve;

20 (9) use the streets, highways and other
21 public ways and, with permission of the owner, to relocate or
22 alter the construction of streets, highways, other public
23 ways, electric and telephone lines and properties, pipelines,
24 conduits and other properties, whether publicly or privately
25 owned, if deemed necessary by the district in the

1 construction, reconstruction, repair, maintenance and
2 operation of the system. Any damage that may occur to the
3 property shall be borne by the district; and

4 (10) provide transportation services outside
5 the boundaries of the district.

6 B. After the creation of a district, the board may
7 include property within or exclude property from the
8 boundaries of the district in the manner provided in this
9 section. Property shall not be included within the
10 boundaries of the district unless it is within the boundaries
11 of the members of the combination at the time of the
12 inclusion. Property located within the boundaries of a
13 governmental unit that is not a member of the combination as
14 the boundaries of the governmental unit exist on the date the
15 property is included shall not be included without the
16 consent of the governing body of the governmental unit.
17 Prior to inclusion of property in or exclusion of property
18 from the boundaries of the district, the board shall cause
19 notice of the proposed inclusion or exclusion to be published
20 in a newspaper of general circulation within the boundaries
21 of the district and cause the notice to be mailed to the
22 commission. The notice shall:

23 (1) describe the property to be included in
24 or excluded from the boundaries of the district;

25 (2) specify the date, time and place at

1 which the board shall hold a public hearing on the proposed
2 inclusion or exclusion; provided that the date of the public
3 hearing contained in the notice shall be not less than twenty
4 days after publication of the notice; and

5 (3) state that persons having objections to
6 the inclusion or exclusion may appear at the public hearing
7 to object to the proposed inclusion or exclusion.

8 C. The board shall hear all objections to the
9 proposed inclusion or exclusion at the time and place
10 designated in the notice. The board, upon the affirmative
11 vote of two-thirds of the directors, may adopt a resolution
12 including or excluding all or a portion of the property
13 described in the notice. Upon the adoption of the
14 resolution, the property shall be included within or excluded
15 from the boundaries of the district as set forth in the
16 resolution. The board may adopt the resolution without
17 amending the district's enabling contract. The board shall
18 file the resolution with the commission, who shall cause the
19 resolution to be recorded in the real estate records of each
20 county having territory included in the boundaries of the
21 district.

22 Section 7. TOLL COLLECTION. --

23 A. A district may promulgate rules regarding
24 collection of fees, tolls, rates or charges. State and local
25 law enforcement authorities may enter into traffic and toll

1 enforcement agreements with a district.

2 B. A person who fails to pay a fee, toll, rate or
3 charge required for the privilege of traveling on or using
4 property included in a regional transit system may be
5 assigned a fine of not more than one hundred fifty dollars
6 (\$150) or not less than fifty dollars (\$50.00). The
7 magistrate or metropolitan court where the offense took place
8 shall have jurisdiction over actions brought pursuant to this
9 subsection.

10 Section 8. BONDS.--

11 A. A district may issue bonds solely for the
12 purpose of financing the purchase, construction, renovation,
13 equipping or furnishing of a regional transit system project.
14 The district shall issue the bonds pursuant to resolution of
15 the board, and the bonds shall be payable solely out of all
16 or a specified portion of the revenues as designated by the
17 board. Proceeds of the bonds may be used to pay expenses
18 incurred in the preparation, issuance and sale of the bonds.

19 B. As provided in the resolution of the board
20 under which the bonds are authorized to be issued, the bonds
21 shall:

22 (1) be executed and delivered by the
23 district;

24 (2) be in a form and denomination and
25 include terms and maturities;

- 1 (3) be subject to optional or mandatory
- 2 redemption prior to maturity with or without a premium;
- 3 (4) be in fully registered form or bearer
- 4 form registrable as to principal or interest or both;
- 5 (5) bear conversion privileges;
- 6 (6) be payable in installments and at a time
- 7 not exceeding forty years from the date of issuance;
- 8 (7) be payable within or outside the state;
- 9 (8) have the principal paid in yearly
- 10 amounts beginning not later than two years from the date of
- 11 issuance of the bonds;
- 12 (9) be subject to purchase at the option of
- 13 the holder or the district;
- 14 (10) be executed by the officers of the
- 15 district, including the use of one or more facsimile
- 16 signatures so long as at least one manual signature appears
- 17 on the bonds, which signatures may be either of an officer of
- 18 the district or of an agent authenticating the same;
- 19 (11) be in the form of coupon bonds that
- 20 have attached interest coupons bearing a manual or facsimile
- 21 signature of an officer of the district; and
- 22 (12) be sold at a net effective interest
- 23 rate not exceeding the maximum net effective interest rate
- 24 permitted by the Public Securities Act.

25 C. Bonds may be sold at public or private sale at

1 a price, in a manner and at a time determined by the board,
2 and the board may pay all fees, expenses and commissions that
3 it deems necessary or advantageous in connection with the
4 sale of the bonds. The power to fix the date of sale of the
5 bonds, receive bids or proposals, award and sell bonds, fix
6 interest rates and take all other action necessary to sell
7 and deliver the bonds may be delegated to an officer or agent
8 of the district. Outstanding bonds may be refunded by the
9 district as provided in the Public Securities Act.

10 D. A resolution authorizing the issuance of bonds
11 may pledge all or a portion of the revenues of the district,
12 may contain a provision for protecting and enforcing the
13 rights and remedies of holders of the bonds as the district
14 deems appropriate, may set forth the rights and remedies of
15 the holders of the bonds and may contain provisions that the
16 district deems appropriate for the security of the holders of
17 the bonds.

18 E. A pledge of revenues or property made by a
19 district or by a person or governmental unit with which a
20 district contracts shall be valid and binding from the time
21 the pledge is made. The revenues or property so pledged
22 shall immediately be subject to the lien of the pledge
23 without a physical delivery or further act, and the lien of
24 the pledge shall be valid and binding against all parties
25 having claims in tort or contract or otherwise against the

1 pledging party, irrespective of whether the claiming party
2 has notice of the lien.

3 F. Neither the directors of the board, employees
4 of the district or a person executing the bonds shall be
5 liable personally on the bonds or subject to personal
6 liability or accountability by reason of the issuance of the
7 bonds.

8 G. A district may purchase its bonds out of
9 available funds and may hold, pledge, cancel or resell the
10 bonds subject to and in accordance with agreements with the
11 holders.

12 H. Bonds shall be payable solely from pledgeable
13 revenue and shall not constitute an indebtedness or general
14 obligation of the district, the state or other political
15 subdivisions of the state.

16 I. The form and terms of bonds shall be approved
17 by the state board of finance before issuance of the bonds.

18 Section 9. AGREEMENT OF THE STATE NOT TO LIMIT OR ALTER
19 RIGHTS OF OBLIGEEES. --The state pledges and agrees with the
20 holders of bonds issued under the Regional Transit District
21 Act and with those parties who enter into contracts with a
22 district or a member of a combination pursuant to the
23 Regional Transit District Act that the state will not impair
24 the rights vested in the district or the rights or
25 obligations of a person with which the district contracts to

1 fulfill the terms of an agreement made pursuant to the
2 Regional Transit District Act. The state further agrees that
3 it will not impair the rights or remedies of the holders of
4 the bonds of a district until the bonds have been paid or
5 until adequate provision for payment has been made. A
6 district may include this provision and undertaking for the
7 state in bonds.

8 Section 10. INVESTMENTS. --A board may invest or deposit
9 funds in accordance with the prudent investor rule set forth
10 in the Uniform Prudent Investor Act. The board may employ
11 investment management services to invest the funds and may
12 pay reasonable compensation for investment management
13 services from the assets of the applicable funds. The board
14 shall keep accurate and complete records and accounts
15 concerning the investment portfolio.

16 Section 11. EXEMPTION FROM TAXATION. --The income or
17 other revenues of a district, all properties at any time
18 owned by a district, all bonds issued by a district and the
19 income from the bonds issued by a district are exempt from
20 taxation in the state.

21 Section 12. COOPERATIVE POWERS. --A district may
22 cooperate with a person to:

23 A. accept legitimate contributions or liens
24 securing obligations of the district from the person with
25 respect to the financing, construction, operation or

1 maintenance of a regional transit system and, in connection
2 with a loan or advance, enter into contracts establishing the
3 repayment terms;

4 B. enter into contracts regarding the financing,
5 construction, operation or maintenance of a specified
6 regional transit system;

7 C. enter into joint operating contracts concerning
8 a regional transit system;

9 D. acquire easements or rights of way for a
10 regional transit system; and

11 E. designate a regional transit system as part of
12 the state highway system, a county highway system or a
13 municipal highway system if the person with jurisdiction over
14 the applicable highway system consents to the designation.

15 Section 13. POWERS OF GOVERNMENTAL UNITS. -- A
16 governmental unit, for the purpose of aiding the financing,
17 construction, operation or maintenance of a regional transit
18 system, may:

19 A. sell, lease, loan, donate, grant, convey,
20 assign, transfer and otherwise dispose to the district real
21 or personal property or interests therein;

22 B. enter into agreements with a person for the
23 joint financing, construction, operation or maintenance of a
24 regional transit system. Upon compliance with applicable
25 constitutional or charter limitations, the governmental unit

1 may agree to make payments, without limitation as to amount
2 except as set forth in the agreement, from revenues received
3 from one or more fiscal years, to the district or a person to
4 defray the costs of the financing, construction, operation or
5 maintenance of a regional transit system; and

6 C. transfer to the district a contract that may
7 have been awarded by the governmental unit for construction,
8 operation or maintenance of a regional transit system.

9 Section 14. NOTICE-- OPPORTUNITY FOR COMMENT. --

10 A. At least forty-five days prior to a meeting at
11 which the board shall consider or take action on a proposal
12 to request, establish, increase or decrease a rate, toll, fee
13 or charge, the board shall deliver written notice of the
14 meeting and proposal to a governmental unit where the
15 proposed rate, toll, fee or charge will be imposed. The
16 affected governmental unit shall be afforded a reasonable
17 opportunity for comment, either at a regular meeting of the
18 board or at a special meeting convened to receive comment.

19 B. At least seven business days prior to a
20 regularly scheduled meeting, the board shall make available
21 to the public written or electronic notice of the time and
22 agenda of the meeting. The board shall designate during each
23 meeting a public comment period and shall offer the public an
24 opportunity to comment.

25 Section 15. NOTICE-- COORDINATION OF INFORMATION. --

1 A. At least forty-five days prior to the
2 imposition of or an increase in a rate, toll, fee or charge
3 or prior to the issuance of bonds as authorized in the
4 Regional Transit District Act, a notice specifying the amount
5 of the fee, toll, rate or charge and its proposed duration or
6 the value and number of bonds to be issued shall be sent to
7 the commission and to the taxation and revenue department.

8 B. The commission shall file an annual report with
9 the state auditor concerning the activities of all active
10 districts. The report shall detail how many districts have
11 been created, describe their boundaries and specify the
12 regional transit systems that are being provided and how they
13 are being financed.

14 Section 16. TAXATION. -- A district has no direct
15 taxation authority.

16 Section 17. ADDITION OR WITHDRAWAL OF TERRITORY BY A
17 DISTRICT. --

18 A. After the creation of a district, a
19 governmental unit adjacent to but not part of that district
20 may join the district and determine the territorial area to
21 become a part of that district. A two-thirds affirmative
22 vote by the board shall be required before the governmental
23 unit may join the district.

24 B. A governmental unit that is a member of a
25 district may withdraw from the district by adopting a

1 resolution to withdraw. The governmental unit shall withdraw
2 its representative from the board. Real property owned by
3 the district within the boundaries of the withdrawing
4 governmental unit shall remain the property of the district.
5 The provisions of withdrawal shall be negotiated and agreed
6 to by the board, the governmental unit and the commission.

7 Section 18. MATCHING FUNDS. --The local government
8 members of a combination shall match at least one dollar
9 (\$1.00) for every four dollars (\$4.00) provided by the state.
10 Before a district is able to receive state matching funds, it
11 must be certified by the commission pursuant to Section 4 of
12 the Regional Transit District Act. _____

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